

10/521336

Rec'd PCT/PTO 11 JAN 2005
Patent

Attorney Docket: 892,280-499

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

LAZZARINI et al.

Serial No.: Not yet assigned

Filed: Submitted herewith

For: ANTIBIOTIC 107891, ITS FACTORS
A1 AND A2, PHARMACEUTICALLY
ACCEPTABLE SALTS AND
COMPOSITIONS, AND USE
THEREOF

Group Art Unit: Not yet assigned

INFORMATION DISCLOSURE STATEMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with 37 CFR §§ 1.97 and 1.98, the items identified in this Information Disclosure Statement ("IDS") are brought to the attention of the Office. The items are listed on the attached form PTO-1449. Also attached are related International Search Report and Supplemental European Search Reports (from priority application).

The items identified in this IDS may or may not be "material" pursuant to 37 CFR § 1.56. The submission thereof by Applicant is not to be construed as an admission that any such patent, publication or other information referred to therein is material or considered to be material (37 CFR § 1.97(h)), or even qualifies as "prior art" under 35 USC § 102 with respect to this invention unless specifically designated by Applicant as such.

CERTIFICATE OF MAILING (37 C.F.R. §1.10)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as 'Express Mail Post Office To Addressee' (Label No. EV337191292US) in an envelope addressed to the Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450.

January 11, 2005

Date of Deposit
IR1:1061186.1

Cynthia B. Pacheco
Cynthia B. Pacheco

INFORMATION DISCLOSURE STATEMENT FILING PROVISION:

☒ This IDS is believed to be timely in that it is being submitted under 37 CFR § 1.97(b), that is (1) within three months of the filing date of the application, which is not a continued prosecution application filed under § 1.53(d); or (2) within three months of entry of the national stage as set forth in 37 CFR § 1.491; or (3) before the mailing of a first Office action on the merits; or (4) before the mailing of a first Office action after filing a request for continued examination under § 1.114. Thus, no fee is required.

☐ However, if the undersigned is in error in this regard, Applicant respectfully requests that the Office consider this IDS as filed under 37 CFR § 1.97(c), if applicable, and charge the fee due under 37 CFR § 1.17(p) to the deposit account referenced below.

☐ However, if the undersigned is in error in this regard, Applicant respectfully requests that the Office consider this IDS as filed under 37 CFR § 1.97(c), if applicable, and a statement under 37 CFR § 1.97(e) is included below, thus no fee is required.

☐ This IDS is being submitted under 37 CFR § 1.97(c), that is after mailing of a first Office action on the merits, but before a Final Action under 37 CFR § 1.113 or a Notice of Allowance under 37 CFR § 1.311.

☐ The fee due under 37 CFR § 1.17(p) is submitted herewith.

☐ A statement under 37 CFR § 1.97(e) is included below, thus no fee is required. In the event that this IDS is not received before a Final Action or a Notice of Allowance, then Applicant respectfully requests that the Office consider the filing of these papers to be submitted under 37 CFR § 1.97(d) and charge the fee due under 37 CFR § 1.17(p) to the deposit account below.

☐ This IDS is being submitted under 37 CFR § 1.97(d), that is after a Final Action under 37 CFR § 1.113 or a Notice of Allowance under 37 CFR § 1.311, but before payment of the issue fee. A statement under 37 CFR § 1.97(e) is included below. The fee due under 37 CFR § 1.17(p) is submitted herewith.

Statement Under 37 CFR § 1.97(e):

☐ Each item contained in this IDS was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this IDS.

☐ No item contained in this IDS was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing this statement after making reasonable inquiry, no item of information contained in this IDS was known to any individual designated in 37 CFR § 1.56(c) more than three months prior to the filing of this IDS.

PAYMENT AND/OR AUTHORIZATION TO CHARGE FEES:

- ☐ A check in the amount of \$180.00 is enclosed for the above fee(s).
- ☐ Please charge _____ to Deposit Account No. 50-2862 for the above fee(s).

Reference AC is in a language other than the English language. A concise explanation of relevance is given below.

Ref AC: Discloses an Antibiotic 5F-2240 prepared from Microbispora strain, having weak antimicrobial activity against Gram positive and negative bacteria. It is a strain newly separated from soil. Cultivation of the strain yeilds the novel antibiotic substance SF-2240. Appearance: white amorphous powder; melting point: 104W108°C; elemental analysis: C 53.13%, H 6.15%, N 16.26%, O 24.75%; molecular weight: 591; molecular formula: C₂₆H₃₇N₇O₉; solubility: soluble in water and lower alcohol, insoluble in organic solvents such as ethyl acetate, benzene, hexane, etc.; color reactions: positive to Lemieux, sulfuric acid, ninhydrin, and Greig-Liepack reagent, and negative to Sakaguchi's reagent

The Commissioner is authorized to charge any fees required by the filing of these papers, and to credit any overpayment to O'Melveny and Myers' Deposit Account No. 50-2862.

Respectfully submitted,

O'MELVENY & MYERS LLP

Dated: January 11, 2005

By: Diane K. Wong
Diane K. Wong
Reg. No. 54,550
Attorneys for Applicant

O'Melveny & Myers LLP
114 Pacifica, Suite 100
Irvine, CA 92618-3315
(949) 737-2900

FORM PTO-1449

ATTY. DOCKET NO.

892,280-499

SERIAL NO.

Not Yet Assigned

10/521336

LIST OF PATENTS AND OTHER DOCUMENTS FOR APPLICANT'S
INFORMATION DISCLOSURE STATEMENT

APPLICANT:

LAZZARINI et al.

FILING DATE:

Herewith

GROUP:

(Use several sheets if necessary)

U.S. PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUB CLASS	FILING DATE
	AA	6,551,591	04/2003	Lee			

FOREIGN PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUB CLASS	TRANSLATION YES NO	
	AB	EP 0 592 835	04/1994	Europe				
	AC	JP 59 198982	11/1984	Japan				X

OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, etc.)

	AD	Database WPI Section Ch, Week 198451, Derwent Publications Ltd., London, GB, Class B04, AN 1984-316058
	AF	HAYAKAWA, M. et al. "Distribution of antibiotic-producing Microbisporea strains in soils with different pHs" ACTINOMYCETES 6(3): 75-79 (1995)
	AG	LAZZARINI, A. et al. "Rare genera of actinomycetes as potential producers of new antibiotics" Antonie Van Leeuwenhoek 78(3-4): 399-405 (Dec 2000)
	AH	McAULIFFE, O. et al. "Lantibiotics: structure, biosynthesis and mode of action" FEMS MICROBIOLOGY REVIEWS 25(3): 285-308 (May 2001)
	AI	SAHL, H-G. et al. "Lantibiotics : Biosynthesis and Biological Activities of Uniquely Modified Peptides from Gram-Positive Bacteria" ANN. REV. MICROBIOL. 52:41-79 (1998)
	AJ	XU, S-Z et al. "Isolation of the genus Microbisporea from soil of China" WEISHENGU XUEBAO 19(3): 255-58 (1979)

EXAMINER:

DATE CONSIDERED:

EXAMINER: Initial if reference is considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include a copy of this form with next communication to applicant.